

## **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 12, 2023**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 12, 2023, at 10:00 a.m., in Council Chambers, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

<b>Call to Order</b>	<p><b>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</b></p> <p><b>Mr. Vincent called the meeting to order.</b></p>
<b>M 591 23 Approve Agenda</b>	<p><b>A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the Agenda as presented.</b></p> <p><b>Motion Adopted: 5 Yeas</b></p> <p><b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b></p>
<b>Minutes</b>	<p><b>The minutes from December 5, 2023, were approved by consensus.</b></p>
<b>Corre- spondence</b>	<p><b>Mr. Moore reported that correspondence was received from Southern Delaware Therapeutic Riding, Read Aloud Delaware, Down Syndrome Association of Delaware, West Side New Beginnings, Inc., and Delaware Foundation Reaching Citizens thanking Council for their donations.</b></p>
<b>Recognition</b>	<p><b>The Cape Henlopen High School Field Hockey team was recognized for winning the Division I State Championship.</b></p> <p><b>The Delmar High School Field Hockey team was recognized for winning the Division II State Championship.</b></p> <p><b>The Sussex Academy High School Boys' Soccer team was recognized for winning the Division II State Championship.</b></p>
<b>Public</b>	<p><b>Public comments were heard.</b></p>

<b>Comments</b>	<p><b>Ms. Judy Rose Siebert spoke about development design initiatives and the recent annual report from the Office of State Planning.</b></p> <p><b>Ms. Margaret McLaughlin spoke about Senate Bill 186, Voluntary School Assessment.</b></p>
<b>M 592 23 Approve Consent Agenda</b>	<p><b>A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to approve the following items under the Consent Agenda:</b></p> <ol style="list-style-type: none"><li><b>1. Use of Existing Wastewater Infrastructure Use Agreement IUA-1189 (Phase 1) Villas at Bridgeville (Western Sussex Area)</b></li><li><b>2. Use of Existing Wastewater Infrastructure Use Agreement IUA-1189 (Phase 2) Villas at Bridgeville (Western Sussex Area)</b></li><li><b>3. Use of Existing Wastewater Infrastructure Use Agreement IUA-1242 Silver Woods Villa District (Miller Creek Area)</b></li></ol> <p><b>Motion Adopted: 5 Yeas</b></p> <p><b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b></p>
<b>Recognition</b>	<p><b>Ms. Jackie Clark and Mr. Richard King were recognized for their retirement.</b></p>
<b>Perimeter Buffer Update</b>	<p><b>Mr. Lawson, Mr. Robertson, and Mr. Whitehouse provided an update related to perimeter buffers.</b></p> <p><b>Mr. Lawson reported that County Council ranked Perimeter Buffer as the first item to update for the development design initiative. Staff has developed an outline of suggested updates for Perimeter Buffers.</b></p> <p><b>The first section discussed was definitions which is the section that defines specific terms. Mr. Lawson reported that forest assessment, perimeter buffer, perimeter buffer landscape plan, perimeter buffer protection area and woodlands will be specifically defined in a future document. The definitions are as follows:</b></p> <p><b>Forest Assessment – the process for determining habitat and trees of high value to be preserved.</b></p> <p><b>Perimeter Buffer – a managed area around the outer perimeter of any major subdivision that is 30’ in width.</b></p> <p><b>Perimeter Buffer Landscape Plan – a plan prepared by a licensed professional that depicts specific requirements.</b></p>

**Perimeter  
Buffer  
Update  
(continued)**

**Perimeter Buffer Protection Area – the area adjacent to the Perimeter Buffer that contains existing woodlands and remains protected during construction.**

**Woodlands – contiguous area of wood vegetation at least 10,000 sq. feet in size that contains specific tree sizes.**

**A discussion was held about the 30 feet and if it was enough for the buffer.**

**Section II is perimeter buffer standards that defines the standards to which a Perimeter Buffer should be planted or preserved, in the case of existing woodlands. The standards include:**

- **All trees and shrubs must be native and on the County list [to be developed]**
- **Plantings to ANSI A300 standards; 70% deciduous and 30% evergreen; 15 trees per 100 feet.**
- **All trees and shrubs must be 6 feet in height at time of planting and obtain a minimum height of 10 feet.**
- **Permanent signage will mark the Perimeter Buffer.**
- **The buffer can include both existing woodlands and planted trees.**
- **When a Resource Buffer (115-193) is required, the Resource Buffer takes precedence over and is not in addition to the Perimeter Buffer.**

**Mr. Lawson explained that the perimeter buffer rules would distinguish when existing woodlands are in place where the Perimeter Buffer is to be located or no woodlands are in place where the Perimeter Buffer is to be located.**

**Mr. Lawson shared some aerial photos of existing subdivisions showing existing woodlands and no woodlands.**

**The following lists the rules for Existing Woodlands to be used for the Perimeter Buffer:**

- **Requires a forest assessment by certified professional.**
- **The woodlands will be shown on the site plan and landscape plan.**
- **Woodlands shall remain in its natural state with limited activity within.**
- **The Perimeter Buffer woodlands will be protected by an area that “buffers-the-buffer” by 20’ and is called the Perimeter Buffer Protection Area.**
- **The buffer and protection area will be fenced-off/marked during construction.**
- **Walking trails in the woodlands is permitted.**
- **All Perimeter Buffer (existing or planted) will have a two-year guarantee.**

**In addition, the following lists the rules when no woodlands exist to be used**

**Perimeter  
Buffer  
Update  
(continued)**

**for the perimeter buffer:**

- **The developer must comply with the Perimeter Buffer standards and landscape plan.**
- **The newly planted buffer will be fenced off/marked during construction.**
- **All Perimeter Buffer (existing or planted) will have a two-year guarantee.**

**Mr. Lawson explained that the Perimeter Buffer rules aim to incentive saving existing woodlands to be used for the Perimeter Buffer. The rules will have a five year “look back” for the area to be used for the Perimeter Buffer. The following steps will happen if the Perimeter Buffer area is harvested up to five years prior to the application:**

- 1. The woodlands area of the Perimeter Buffer will be measured to determine the area harvested – only the area of the 30’ Perimeter Buffer is measured; and**
- 2. The Perimeter Buffer will be replanted with double the density of trees (15 trees every 50 feet); and**
- 3. A new area must be planted or preserved that is double the size of the area harvested; and**
- 4. The new area can be planted or preserved on the development property or at another property that is off-site and within the same HUC-12.**

**Mr. Lawson explained that the new rules will look back to see if the perimeter buffer was harvested up to 5 years prior to the development. The woodlands area of the Perimeter Buffer will be measured to determine the area harvested only the area of the 30’ Perimeter Buffer is measured.**

**Mr. Lawson reported that Section III is the Perimeter Buffer Landscape Plan that defines the information and detail to be demonstrated on the plan to meet the requirements and standards of the Perimeter Buffer and Protection Areas. The section includes the following:**

- **The approximate location of the protective fencing.**
- **The locations, spacing, height and species of new trees and shrubs.**
- **The location of the Perimeter Buffer signage**
- **A summary table of the new trees to be planted and existing trees to be retained.**
- **A planting schedule for the installation of the Perimeter Buffer.**
- **The Perimeter Buffer, per phase, must be planted prior to the first residential building permit for the respective phase.**
- **Provides a “miscellaneous clause” allowing the PZ Commission to approve a plan with other features along the roadway frontage not necessarily part of the Perimeter Buffer requirements.**

**Section IV relates to timing; bonds and guarantees which defines the timing**

**Perimeter  
Buffer  
Update  
(continued)**

of the Perimeter Buffer installation and the guaranties required for the protection of the buffer's trees and shrubs. Mr. Lawson noted that nothing was new in this section other than codifying some of the bonding practices that we have today.

In Section V, Perimeter Buffer Maintenance is discussed to define the responsibility for the health and survival of the Perimeter Buffer. The developer is responsible for the survival of the Perimeter Buffer for two years.

Perimeter Buffer Tree Mitigation is included in Section VI that defines what happens when trees or shrubs are removed or damaged without authorization.

Section VII outlines violations and penalties for violations of the new requirements that may be imposed.

**Adminis-  
trator's  
Report**

Mr. Lawson read the following information in his Administrator's Report:

**1. Caroling on The Circle**

The Sussex County Council would like to thank the community for participating in the 40<sup>th</sup> annual Caroling on The Circle on Thursday, December 7<sup>th</sup>. We had a very successful night with hundreds of carolers and thus far have collected nearly 15,300 canned goods and nonperishable food items for our less fortunate neighbors.

We remind everyone that the County is continuing to collect items until the end of the year and will continue to distribute these goods to our local food pantries. We want to thank all our volunteers, local businesses, and schools for helping to collect the food over the last month and for making this year's Caroling on The Circle a success!

**2. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion effective November 21st: Osprey Point – Phase 4 a.1 – Old Landing Road Sewer Tie In; Osprey Point – Phase 4a – Construction Record and Osprey Point – 4b – Construction Record.

**3. Shirley Sommers**

It is with great sadness that we inform you that pensioner, Shirley Sommers, passed away on Tuesday, December 5, 2023. Her last position with the County was Deputy Register of Chancery where

**Adminis-  
trator's  
Report  
(continued)**

she worked until March 1997 for a total of 23 years of service. We would like to extend our condolences to the Sommers family.

**4. Christmas and New Year's Holidays**

Please note, County offices will be closed on December 25<sup>th</sup> and December 26<sup>th</sup>, to celebrate the Christmas holiday and January 1<sup>st</sup> for the New Year's holiday. The next regularly scheduled Council meeting will be held on Tuesday, January 2, 2024, at 10:00 a.m.

[Attachments to the Administrator's Report are not attached to the minutes.].

**Interim  
Sewer  
Operation**

Hans Medlarz, County Engineer and John Ashman, Director of Utility Planning & Design Review presented an interim sewer operations and transition agreement for Council's consideration.

**M 593 23  
Approve  
Interim  
Sewer  
Operation &  
Transition  
Agreement**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved based upon the recommendation of the Sussex County Engineering Department that the County Council President is authorized to execute the Interim Sewer Operation & Transition Agreements of Warwick Cove and Gull Point as presented on December 12, 2023.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 594 23  
Authorize  
Contract/  
White Marsh  
Environm-  
ental Services**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved based upon the recommendation of the Sussex County Engineering Department that the Sussex County Council authorizes a contract with White Marsh Environmental Services for the operations and maintenance of the existing Warwick Cove and Gull Point onsite systems as presented on December 12, 2023.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Blackwater  
Village**

Hans Medlarz, County Engineer and John Ashman, Director of Utility Planning & Design Review presented a tentative SRF funding offer for Blackwater Village for Council's consideration.

**M 595 23  
Approve**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved by Sussex County Council that the Sussex County Engineering

<b>Public Hearing/ Blackwater Village</b>	<b>Department to advertise and conduct a public hearing for the Blackwater Sanitary Sewer District Area in accordance with Delaware Code Title 9.</b> <b>Motion Adopted: 5 Years</b> <b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b>
<b>2023 Mass Annexation</b>	<b>John Ashman, Director of Utility Planning &amp; Design Review presented 2023 mass annexation for Council’s consideration. Mr. Ashman reported that the following parcels are being submitted: 234-12.00-9.03, 234-23.00-116.03 and 334-6.00-552.01.</b>
<b>M 596 23 Approve 2023 Mass Annexation</b>	<b>A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that Sussex County Council approves the Mass Annexation as presented on December 12, 2023 and gives permission to adjust the sewer tier maps accordingly.</b> <b>Motion Adopted: 5 Years</b> <b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b>
<b>Old Business/ CU2285</b>	<b>Under Old Business, Jamie Whitehouse, Planning &amp; Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOURIST HOME TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.831 ACRES, MORE OR LESS” (property lying on the south side of Cave Neck Road [S.C.R. 88] approximately 0.43 mile west of Diamond Farm Road [S.C.R. 257]) (911 Address: 26182 Cave Neck Road, Milton) (Tax Parcel: 235-21.00-48.00) filed on behalf of Ashley DiMichele.</b> <b>The County Council held a Public Hearing on the Ordinance at its meeting of April 26, 2022. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.</b>
<b>M 597 23 Approve CU2285/ DENIED</b>	<b>A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOURIST HOME TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.831 ACRES, MORE OR LESS”.</b>

**Motion DENIED: 5 Nays**

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Nay;  
Mr. Hudson, Nay; Mr. Rieley, Nay;  
Mr. Vincent, Nay**

**Old Business/  
Ord. No. 23-11** Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 234-6.00-6.02” (property lying on the west side of Beaver Dam Road [Rt. 23], approximately 0.50 mile north of Hopkins Road [S.C.R. 286]) (911 Address: 30857 Saddle Ridge Way, Lewes) (Tax Map Parcel: 234-6.00-6.02)

The County Council held a Public Hearing on the Ordinance at its meeting of September 19, 2023. At the conclusion of the Public Hearing, action was deferred, and the record was left open to receive a recommendation from the Planning & Zoning Commission which it did and then Council closed the public record.

**M 598 23  
Adopt  
Ordinance  
No. 2966/  
Ord. No. 23-  
11** A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2966 entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 234-6.00-6.02” for the reasons given by the Planning & Zoning Commission as follows:

1. The property is currently designated as a “Low-Density Area” within the County’s Future Land Use Map.
2. The Future Land Use Map designates the property on the opposite side of Beaver Dam Road as “Coastal Area” and there is some existing “Coastal Area” land mapped on the same side of Beaver Dam Road.
3. There was no opposition to this proposed amendment to the Future Land Use Map.
4. This property is located along Beaver Dam Road in an area that has developed with multiple large subdivisions around it. Presumably, since these subdivisions preceded the current Future Land Use Map, there was no consideration about mapping them to direct their future development and they were left within the Low-Density Area. However, they are also consistent with the Coastal Area designation and could have been given that designation at the time the current Future Land Use Map was drafted and approved.
5. For all of these reasons, it is appropriate to recommend that Parcel No. 234-6.00-6.02 be changed to the “Coastal Area” on the Future Land Use Map.
6. In addition, in recognition of the existing development in this area and the nearby mapping, it would be appropriate for the County Council to separately consider changing all of the land in this triangle between Fisher Road, Hopkins Road, and Beaver Dam Road to the Coastal Area in our Future Land Use Map.



7. For all of these reasons, I move that the Commission recommend approval of Ordinance No. 23-11.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Old Business/  
CU2350** Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.144 ACRES, MORE OR LESS” (property lying on the west side of Beaver Dam Road [Rt. 23], approximately 0.50 mile north of Hopkins Road [S.C.R. 286]) (911 Address: 30857 Saddle Ridge Way, Lewes) (Tax Map Parcel: 234-6.00-6.02) filed on behalf of Beaver Dam Enterprises, LLC.

A Public Hearing was held before the County Council on September 19, 2023. On September 28, 2023, the Planning & Zoning Commission recommended approval of application C/U 2350 for the 7 reasons stated and subject to the 13 recommended conditions as outlined.

**M 599 23  
Adopt  
Ordinance  
No. 2967/  
CU2350** A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2967 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.144 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. The property is zoned AR-1 Agricultural Residential. Multi-Family conditional uses can be appropriate in the AR-1 District when the land is located in the Coastal Area according to the Future Land Use Map in Sussex County’s Comprehensive Plan. This Commission has recommended approval of a change to the Future Land Use Map to designate this land as being within the Coastal Area.
2. The property is in the vicinity of other residential developments and land that is zoned AR-1, GR, and MR. This conditional use is consistent with other zoning and development in the area.
3. DelDOT has reviewed the proposed project and has determined that the development’s traffic impact will be “diminutive”. This development will also be required to comply with all roadway and entrance improvements mandated by DelDOT.
4. This small multi-family conditional use meets the purpose of the Zoning Code since it promotes the orderly growth of the County in

**M 599 23  
Adopt  
Ordinance  
No. 2967/  
CU2350  
(continued)**

- an appropriate location.
5. The proposed use is consistent with the County's Comprehensive Land Use Plan. It will be in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
  6. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
  7. There was no opposition to this Application and there was one letter in support from the site's neighbors.
  8. This recommendation is subject to the following conditions:
    - a. There shall be no more than 2 Units within the development.
    - b. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
    - c. Central sewer shall be provided to the development.
    - d. The development shall be served by a central water system providing adequate drinking water and fire protection.
    - e. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
    - f. The trash receptacles shall be standard roll-out residential containers assigned to each unit. They shall be stored in an enclosed area. No dumpsters shall be permitted.
    - g. Construction, site work, and deliveries shall only occur on the site between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
    - h. As required by Section 115-22 of the Zoning Code regarding Multi-Family conditional uses in the AR-1 District, a 75-foot-wide vegetated buffer shall be installed along the perimeter of the development. This buffer area shall utilize existing trees and other vegetation to the fullest extent, with infill planting as needed to comply with the buffer requirements Section G (1) through (5) of Section 115-22 of the Zoning Code addressing AR-1 multi-family conditional uses.
    - i. The Final Site Plan shall include a landscape plan for the development showing the forested areas to be preserved, the proposed tree and shrub landscape design, and the buffer areas. The existing trees and other vegetation that will not be disturbed shall be clearly shown on the Final Site Plan and marked on the site

**M 599 23**  
**Adopt**  
**Ordinance**  
**No. 2967/**  
**CU2350**  
**(continued)**

- itself so that they are not disturbed during construction.
- j. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
  - k. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - l. This recommendation is contingent upon County Council approving the amendment to the Future Land Use Map designating this property as being within the Coastal Area.
  - m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**Old Business/**  
**CU2379**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.97 ACRES, MORE OR LESS” (properties lying on the north and south side of Saddle Ridge Way and the west side of Beaver Dam Road [S.C.R. 23], approximately 0.57-mile northeast of Hopkins Road [S.C.R. 286]) (911 Address: 30857 & 30862 Saddle Ridge Way) (Tax Map Parcels: 234-6.00-6.02, 6.03 & 6.04) filed on behalf of Lewes Saddle Ridge Solar 1, LLC.

The County Council held a Public Hearing on the application at its meeting on October 10, 2023. At the conclusion of the Public Hearing the Council closed the Public Record and deferred action on the application for further consideration.

**M 600 23**  
**Adopt**  
**Ordinance**  
**No. 2968/**  
**CU2379**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2968 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.97 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of undeveloped land that will preserve it from

**M 600 23  
Adopt  
Ordinance  
No. 2968/  
CU2379  
(continued)**

- more intensive development. The solar array will be located on approximately 6.26 acres of a larger 7.06-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
  4. There were concerns stated during the hearing about this solar array facility having negative impacts on the surrounding properties and property owners. These concerns are not supported by substantial or well-defined evidence in the record. Instead, the information supplied by the Applicant's experts suggests that the solar array will not adversely affect the neighborhood, and there are solar array facilities throughout not only the United States but also here in Sussex County that indicate that locations such as this are appropriate for this type of use. According to Planning & Zoning Staff:
    - There have been 51 approved solar array applications in Sussex County; of these 13 have received final approval from County Council.
    - Of these 13 sites:
      - o2 of them are within 1/4 of a mile of a village like Roxana or Lincoln.
      - o4 of them are within 1/4 of a mile of a subdivision.
      - o3 of them are within 1/4 of a mile of a town boundary.
      - o2 of them share the boundaries of a subdivision.
  5. Based on the evidence and with the conditions imposed in this recommendation the proposed use will not have any adverse impact on the neighborhood.
  6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
  7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
  8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
  9. There will be a buffer of planted vegetation along the boundary of this site along adjacent Parcels 6.03 and part of Parcel 6.00 as well as the entire Ridings Development to screen it from view as shown on the Preliminary Site Plan.
  10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
  11. This recommendation is subject to the following conditions:
    - a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
    - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.

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Ordinance  
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CU2379  
(continued)**

- c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar array and shall provide contact information in case of emergency.
- e. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
- f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
- g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- i. There shall be a forested buffer along the boundary of the parcel adjacent to Parcels 6.03, the Ridings development buffer, and Parcel 6.00 to the point where the 25-foot wetlands setback begins. No buffer is required for Parcels 6.01 and 6.02. The buffer shall consist of continuous evergreen trees at least 6-feet in height, planted in a staggered arrangement to
- j. effectively achieve a visual buffer. The buffer shall be 20 feet wide and for every 100 linear feet, there shall be a minimum of 15 trees. All new trees shall be guaranteed throughout the existence of this conditional use. This shall be shown, with the requirements stated, on the Final Site Plan.
- k. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.

**Motion Adopted: 3 Yeas, 2 Nays**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Nay;  
Mr. Hudson, Yea; Mr. Rieley, Nay;  
Mr. Vincent, Yea**

**Old Business/  
CU2380**

**Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.81 ACRES, MORE OR LESS” (property lying on the east side of Thorogoods Road [S.C.R. 333], approximately 0.41-mile**

**northeast of Dagsboro Road [Rt. 20]) (911 Address: 30561 Thorogoods Road, Dagsboro) (Tax Map Parcel: 233-5.00-187.00) filed on behalf of Dagsboro Thorogoods Solar 1, LLC.**

**The County Council held a Public Hearing on the application at its meeting on October 10, 2023. At the conclusion of the Public Hearing the Council closed the Public Record and deferred action on the application for further consideration.**

**M 601 23  
Adopt  
Ordinance  
No. 2969/  
CU2380**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2969 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.81 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 26.23 acres of a larger 30.36-acre tract.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, it materially complies with the requirements of that Ordinance.**
- 5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.**
- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.**
- 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 9. There will be a buffer of planted vegetation along the boundary of this site facing Thorogoods Road and the east and west front corners of the site to screen it from view as shown on the Preliminary Site Plan.**
- 10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 11. There was no opposition to this Application.**

**M 601 23  
Adopt  
Ordinance  
No. 2969/  
CU2380  
(continued)**

- 12. This recommendation is subject to the following conditions:**
- a. The use shall be for ground-mounted solar array. No other types of electric generation shall be permitted at the site.**
  - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
  - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
  - d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
  - e. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.**
  - f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.**
  - g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
  - h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
  - i. There shall be a 30-foot-wide buffer of planted vegetation along the boundary of this site facing Thoroughgoods Road and the east and west front corners of the site as shown on the Preliminary Site Plan. This buffer shall consist primarily of spruce trees spaced at 20-foot intervals within this buffer area. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.**
  - j. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
  - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Grant  
Requests**

**Mrs. Jennings presented grant requests for Council’s consideration.**

**M 602 23**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give**

**Greater Lewes Foundation**      **\$3,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account, \$500 from Mr. Rieley's, Councilmanic Grant Account, \$500 from Mr. Vincent's Councilmanic Grant Account and \$500 from Mrs. Green's Councilmanic Grant Accounts) to Greater Lewes Foundation for their 3<sup>rd</sup> annual rally for first responders.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 603 23 Southern DE Alliance for Racial Justice**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500 (\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Southern Delaware Alliance for Radical Justice for their Black Voices magazine program.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 604 23 New Coverdale Outreach Mission**      **A Motion was made by Mrs. Green, seconded by Mr. Rieley to give \$2,500 (\$1,500 from Mrs. Green's Councilmanic Grant Account and \$500 from Mr. Rieley's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account) to New Coverdale Outreach Mission for Clothing for kids for Christmas.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 605 23 Historical Georgetown Association**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,000 (\$2,000 from Mr. Rieley's Councilmanic Grant Account) to Historical Georgetown Association for Education and Disability Purposes.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 606 23 Clothing our Kids**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$4,000 (\$2,000 from Countywide Youth Grant Account and \$2,000 from Mr. Rieley's Councilmanic Grant Account) to Clothing our Kids for their Clothe a Kid program.**



**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Proposed  
Ordinance  
Introduc-  
tions**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR A BUSINESS FOR THE STORAGE AND HAULING OF DIRT AND GRAVEL, AND THE STORAGE OF WORK EQUIPMENT AND TRUCKS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.31 ACRES MORE OR LESS” filed on behalf of Toney & Charletta Floyd.**

**Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-4 PLANNED COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 41.15 ACRES, MORE OR LESS” filed on behalf of Key Properties Group, LLC.**

**Mrs. Green reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS”.**

**CC Member  
Comments**

**Mr. Rieley commented about the infrastructure in Sussex County.**

**M 607 23  
Go Into  
Executive  
Session**

**At 12:11 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session for the purpose of discussing matters related to pending & potential litigation, collective bargaining, personnel & job applicants’ qualifications.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 12:20 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation, collective bargaining, personnel & job applicants’ qualifications. The Executive Session concluded at 1:25 p.m.**

**M 608 23**            **At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to**  
**Reconvene**            **come out of Executive Session back into Regular Session.**

**Motion Adopted:        5 Yeas**

**Vote by Roll Call:        Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**

**M 609 23**            **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to authorize**  
**County**            **the County Administrator to extend an offer to Applicant No. 2023-C for**  
**Engineer**            **the position of County Engineer.**  
**Position**

**Motion Adopted:        4 Yeas, 1 Absent**

**Vote by Roll Call:        Mrs. Green, Yea; Mr. Schaeffer, Absent;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**

**Rules**                **Mr. Moore read the rules and procedures for public hearings.**

**Public**                **A Public Hearing was held on a Proposed Ordinance entitled “AN**  
**Hearing/**            **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**  
**CU2471**            **1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN**  
                         **ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE**  
                         **LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN**  
                         **LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING**  
                         **8.19 ACRES, MORE OR LESS” (property lying on the southeast side of**  
                         **Holland Glade Road [S.C.R. 271], approximately 950 ft. northeast of**  
                         **Coastal Highway [Rt. 1]) (911 Address: 19285 Holland Glade Road,**  
                         **Rehoboth Beach) (Tax Map Parcel: 334-13.00-325.47) filed on behalf of**  
                         **Epworth UMC.**

**The Planning & Zoning Commission held a Public Hearing on the**  
**application on October 26, 2023. At the meeting of October 26, 2023, the**  
**Planning & Zoning Commission recommended approval of the application**  
**for the 6 reasons as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the**  
**application.**

**The Council found that Mr. Lynn Rogers with Rogers Sign Co., Inc. spoke**  
**on behalf of the Applicant. Mr. Rogers stated that the sign already exists;**  
**that the church is proposing to replace the current wooden sign with a full**  
**color electronic message center, in smaller dimensions than the existing**  
**sign; that electronic signs are capable of displaying computer generated**  
**images and text communication in various message from Epworth Church**  
**to the community; that the sign will be in compliance with the Sussex**  
**County Sign Ordinance as it is written to govern electronic message centers.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 610 23  
Adopt  
Ordinance  
No. 2970/  
CU2471**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2970 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 8.19 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:**

- 1. This is an application for a Conditional Use to install an on-premises electronic message display sign. This type of application is permitted under Section 115-161.1 A. (3) of the Zoning Code.**
- 2. The sign will be located on the Epworth United Methodist Church property, and it will be used to display information about the Church and its various activities and events.**
- 3. This sign will replace the existing window static-display sign on the site that is on the Church property.**
- 4. The sign will be required to comply with all of the sign regulations in the Zoning Code, including brightness and motion.**
- 5. The sign will not adversely affect neighboring properties or area roadways and traffic.**
- 6. A final site plan showing the location of the sign on the site shall be submitted to the Sussex County Planning & Zoning Commission for approval.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CZ1996 &  
CU2402**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” (properties on the west side of Central Avenue [Rt. 84] approximately 0.25 mile east of Peppers Corner Road [S.C.R. 365]) (911 Address: 34428 & 34434 Central Avenue, Frankford) (Tax Map Parcels: 134-19.00-13.00 & 13.04) filed on behalf of McKee Builders, Inc.**

**The Planning & Zoning Commission held a Public Hearing on the application**

**Public  
Hearing/  
CZ1996 &  
CU2402  
(continued)**

on October 26, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” (properties lie on the west side of Central Avenue [Rt. 84] approximately 0.25 mile east of Peppers Corner Road [S.C.R. 365]) (911 Address: 34428 & 34434 Central Avenue, Frankford) (Tax Map Parcels: 134-19.00-13.00 & 13.04) filed on behalf of McKee Builders, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons and subject to the 18 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the applications.

The Council found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, McKee Builders, LLC for both C/Z 1996 and C/U 2402 applications, also present were Mr. Jason Palkewicz, Professional Engineer with Solutions IPEM, and Mr. Mark Macgonalic on behalf of McKee Builders, LLC. Mr. Fuqua stated that there were two applications submitted for the property; that the Change of Zone application is requesting a change in zoning from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the Conditional Use application proposes 174 multifamily townhouse units; that the property consists of a 51.23 acre site, located south of Ocean View; that the site has frontage on the west side of Central Ave.; that there is also frontage on the northside of Lizard Hill Rd.; that the majority of the property along the frontage of Central Ave. is cleared farmland; that there is a portion of the Beaver Dam Canal prong tax ditch that crosses the southern portion of the property; that along the frontage of Lizard Hill Rd. the site is mostly wooded; that there is an area of Federally regulated non-tidal wetlands located in that wooded area; that both sides of Central Ave. have been fairly well developed with single-family and multifamily residential communities; that located about a half mile north of the site are the developments of Fairway Village and Bear Trap Dunes; that on the east side of Central Ave. near the site are the developments of Forest Landing and Friendship Creek; that Friendship Creek was approved by Sussex County in 2018, as a Conditional Use for 133 multifamily units to be located on a 47 acre parcel, within the GR (General Residential) Zoning District; that south of Friendship Creek, just past Central Ave. at the intersection with Lizard Hill Rd. is a 14 acre parcel, referred to as Seaway; that this parcel was rezoned from AR-1 to MR in February 2023, as Conditional Use for 57 multifamily

**Public  
Hearing/  
CZ1996 &  
CU2402  
(continued)**

units; that across from Seaway, there is the Wilson Property, that is zoned C-1 (General Commercial), and is being used commercially at this time; that on the northside of Lizard Hill Rd. bordering the property to the west, is Milos Haven, which was approved in 2019 as a GR-RPC with 179 units, 41 single-family lots and 138 townhouse units located on 71.75 acres in the GR District; that the Applications were reviewed as part of the PLUS process about a year ago; that as noted within the PLUS comment letter, the site is located in both Investment Levels 3 and 4 according to the State Strategies Investment Map; that the development is concentrated in the Investment Level 3 portion of the site, which is a Growth Area, and where growth is anticipated by the State and County; that also in the PLUS comments is a note that the development Site Plan shows minimal disturbance to the wooded and wetland areas on the site; that they are requesting a rezoning to the MR Zoning District; that the MR District provides for medium-density residential development in areas which are expected to be urban in character, particularly where central water and sewer are available; that multifamily dwellings, such as townhouses are authorized as a Conditional Use in the MR District, subject to County Council approval; that their requests are in character with the surrounding area; that the site is adjacent to Milos Haven, Friendship Creek and Forest Landing; that MR Zoning or GR Zoning surround the majority of the site; that both the MR and GR Zoning Districts permit the same density at 4.35 units to the acre; that the Application proposes 174 townhouse units to be located on 51.23 acres results in a density of 3.39 units per acre, being significantly less than the maximum that could be requested, which would be 223 townhomes; that the Sussex County Comprehensive Plan designates the property as being within the Coastal Area, which is Growth Area; that the Comprehensive Plan states that it seeks to encourage the most concentrated forms of new development in the Growth Areas, including higher density residential developments; that the Comprehensive Plan recognizes that a range of housing types should be permitted, including townhomes; that the Comprehensive Plan recognizes that medium and higher density development of four to 12 units per acre can be appropriate in certain locations, where central water and sewer are available, and the proposed use is in keeping with the character of the area; that based on those factors, they believe the proposed Applications are consistent with the State Investment Levels map; that the Applications are in character with the existing uses and zoning designations of the surrounding area; that the Applications are in accordance with the goals of the current Comprehensive Plan; that Tidewater Utilities will provide central water for domestic use and fire protection; that Tidewater also holds the CPCN to serve the area and are already serving the area; that the site will be served by the Sussex County Sewer; that Sussex County Engineering Department has indicated that adequate sewer capacity is available for the proposed development; that there will be an onsite sewer pump station on the site; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations; that they will be reviewed by Sussex Construction District; that all stormwater management facilities will meet or exceed current stormwater regulations, including management of water quantity

**Public  
Hearing/  
CZ1996 &  
CU2402  
(continued)**

and quality; that Geotechnology Associates, Inc. performed a Subsurface Soil Exploration Study of the site to determine recommendations for the most appropriate locations for the stormwater facilities; that DelDOT indicated that in accordance with the Development Coordination Manual, DelDOT would accept an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that DelDOT will require the Applicant to improve Central Ave. along the site's frontage, to provide 11-ft. travel lanes with five foot shoulders; that the Applicant will provide a shared use path on the Central Ave. frontage, and will dedicate additional right of way need on Central Ave. to provide a 40 ft. right of way from Central Ave. and on Lizard Hill Rd.; that there will be improvements to the road to provide 11 ft. travel lanes, and five foot shoulders, with a dedication to provide a 30 ft. right of way from the center line; that the development entrance will be designed and constructed in accordance with DelDOT requirements; that the development design was based on the superior design criteria for cluster subdivisions, by identifying areas on the property that are most appropriate for preservation due to natural features such as wetlands, wooded areas and water ways; that they then identified the most appropriate areas for development to minimize impact on the areas that were identified as containing natural features that were worthy of preservation; that the site consists of mostly cleared farmland, with some wooded areas, containing pockets of wetlands; that there is a home and some agricultural outbuildings on the property; that the site borders the tax ditch and a prong that bisects the property; that the southern portion of the site is wooded, containing wooded uplands and non-tidal wetlands; that there was a Wetland Delineation performed by Environmental Resources, Inc.; that the study indicated that the site contained 5.9 acres of Federally regulated non-tidal wetlands, being the land located along the tax ditch and the prong; that additionally, there were three pockets of wetlands located in the wooded area; that the portion of the parcel proposed for development is located within Flood Zone X according to the FEMA Flood Maps; that the townhouse development is proposed to be located on the cleared agricultural lands located on the northern portion of the site; that the entire southern portion of the site, fronting on Lizard Hill Rd., contains the wooded uplands and wetlands; that this area will remain in a natural state and will be permanently preserved; that there will be a 50-ft. resource buffer provided adjacent to the Beaver Dam Canal Tax Ditch, which is classified as a perennial stream; that there will be a 30 ft. resource buffer provided adjacent to other non-tidal wetlands; that the non-tidal wetlands will be undisturbed, except for any necessary road and utility crossings, which will comply with all U.S. Army Corp of Engineers regulations and permitting requirements; that there are 10.04 acres of existing woodlands on the property; that the vast majority of the woodlands are located on the southern portion of the site; that the proposed site design will preserve 9.47 acres (97%) of the existing woodlands; that the community open space will total 29.78 acres (58.1%) of the site; that the development entrance will be from Central Ave., and will be designed and constructed in accordance with DelDOT requirements; that the 174 townhouse units will be located as shown of the Site Plan; that there is a mixture of three, four and five unit

**Public  
Hearing/  
CZ1996 &  
CU2402  
(continued)**

buildings; that the proposed density is 3.39 units per acre, being less than the maximum density permitted in the MR District; that each unit will have two off street parking spaces, which will provide for the 345 required spaces; that there will also be an additional 67 parking spaces located at the recreational center, as well as other locations through the community; that there will be a centrally located recreational facility that will consist, at minimum, of a clubhouse, an outdoor swimming pool, a deck and open space; that there may be other amenities provided, but will be determined based on the demand; that there will be a fenced community dog park located toward the north of the site; that they have proposed that the recreation area and dog park be completed and open for use before the issuance of the 90<sup>th</sup> residential building permit; that a school bus stop will be located near the development entrance is desired by the school district; that the exact location will be coordinated with the Indian River School District office; that there will be a central mailbox facility that will be located near the entrance or at the recreational area; that the development streets will be private, and built to County standards; that there will be sidewalks on both sides of the streets; that street lighting will be non-intrusive and downward screened; that there is a dead-end street connection located on the west side of the development, adjacent to Milos Haven development for possible future connection; that there is no road or pedestrian access provided into the wooded uplands and wetlands located on the southern portion of the site, as the intention is for those to remain permanently preserved in their natural state; that there will be a 20 ft. landscape buffer along the boundary of the site adjacent to the Rickers property and Milos Haven; that the community will be attractively landscape with native trees and plants; that a detailed Landscape Plan will be submitted as part of the Final Site Plan review process; that there will be a Condominium Association created, which will initially be comprised of the Developer, and subsequently comprised of the future residents; that the Condominium Association will be responsible for the enforcement of the restrictions, collection of assessments, and the maintenance and repair of all the community, property and facilities; that at the meeting of November 9, 2023, the Planning and Zoning Commission recommended approval of the MR Change of Zone and the Conditional Use request subject to conditions A-R; that all of the conditions are acceptable to the applicant; that these applications are in compliance with the applicable land use regulations; that the development is designed to preserve and protect the environmental features of the site being the existing woodlands and wetlands; that the proposed zoning and use is in character with the existing zoning in the area and the existing uses in the area; that the applicant requests the Council's approval for the reasons stated.

A discussion was held about the buffer and the tax ditch.

Mr. Rieley commented about workforce housing.

Public comments were heard.

**Public  
Hearing/  
CZ1996 &  
CU2402  
(continued)**

**Mr. Tyler Hickman spoke in opposition of the application; that he lives at the neighboring property; that he questioned how many more people we are going to move into the area without considering the infrastructure; that the roads are not big enough to take on more traffic; that there has been many automobile accidents in this area; that healthcare and commercial facilities are not increasing; that he has served as a volunteer firefighter for 23 years and a career firefighter and EMT in Sussex County for 14 years; that he hears common complaints that people can't find a doctor or have to wait a long time for an appointment; that emergency services are getting busier each year; that volunteerism is down especially on the east side of the County; that he waited for an hour and a half in the ER yesterday for a bed for a patient; that it is occurring more and more year round; that Sussex County does not have a police force; that he questioned where the State Trooper would be coming from to help this area; that this property borders the same line on the tax ditch that his property does; that he attends the tax ditch meetings yearly; that he has learned that builders have been allowed to build in the tax ditch easements in the past; that this creates a problem when the system needs to be cleaned out; that his neighbor's yard floods regularly because his ditch is tidal; that he questioned light and noise pollution; that he hunts on his property and per DE law, he has to have 100 yards from an occupied structure; that he does not believe that a change of zone should be allowed to limit his usage of his property as he has been using it in his zoning; that he requests that the working hours be established and enforced; that he requests no Sunday hours and limited Saturday hours; that he asked for no holiday hours; that he worries about the dog park bordering his house and what noise it would cause to him; that he noticed an inconsistency with the density; that there were three letters in support; that they are sound of the same; that two of the authors to the realtor that facilitated the sale of the property; that the other letter has properties associated with developers and builders; that they do not live near this property.**

**Ms. Camilla Lane spoke in opposition of the application; that he is speaking on behalf of her friend, Demetris Karvounis; that he opposes the plan as it is presented today; that in the 1970s, he purchased 20.5 acres on Central Ave; that he is right across from the property in question for a subdivision; that he met Mr. Hickman, the father of the three children, the present sellers of the property; that they had a lot discussion about his plan; that he suggested to subdivide into half acres lots; that Mr. Hickman said if and when he decided to sell, he would do the same on his property; that under gentlemen's agreement, we agreed and he subdivided his property into 8 lots under phase 1; that lots 1-8 were a half of an acre each; that if he were here with us today, he is certain that he would not subdivide these properties into multi units; that he agrees with Tyler Hickman's letter and comments today to the zoning commission and today's meeting; that Camilla Lane asked what would happen with the traffic; that she agrees with Tyler Hickman about the accidents; that there has been 4-5 accidents that have landed in their front yard; that they are concerned about the traffic, pollution and noise; that they questioned if the sewage would be available to them and other owners on Central Ave.**



**The Public Hearing and public record were closed.**

**M 611 23**  
**Defer Action/**  
**CZ1996**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” for the reasons given by Planning & Zoning.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 612 23**  
**Defer Action/**  
**CU2402**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” for the reasons and conditions given by Planning & Zoning.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public**  
**Hearing/**  
**CU2388**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS” (property lying on the south side of Rifle Range Road [S.C.R. 545], approximately 1.14 mile east of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 131-15.00-51.00 [p/o]) filed on behalf of Rifle Range Road Solar, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 10 recommended conditions as outlined.**

**The Council found that Mr. Michael DeNote, Esq. with Barnes &**

**Public  
Hearing/  
CU2388  
(continued)**

Thornburg, LLP spoke on behalf of the Applicant; that also present were Mr. James Taylor, Civil Engineer with Verdantas, LLC, and Mr. Kevin Corbitt on behalf of the applicant. Mr. De Note stated the total size of the parcel is approximately 93.66 acres; that the Conditional Use area is proposed to be 36.65 acres of the total acreage; that the advertisement did include the whole parcel acreage, however only a portion of the site is proposed for the use; that they met with members of the community to go over the application; that the solar array is 160 feet from the northwest corner; that that is 772 feet from the northeast corner of the property; that it is 52.6 feet from the side yard and 77 feet from its furthest point; that in the rear at its closest point, it is 370 feet from the array; that the array equipment is no closer than 200 feet from any dwelling; that it is ground mounted and there is no battery storage; that there will be a fence, as required, around the entire facility, being at least seven feet in height; that there will be a Knox box for the lock on the gate; that there will be a decommissioning plan; that there are no wetlands on the property; the plan has been submitted and review by the Fire Marshall.

The Council found that Mr. Taylor discussed the proposed landscaping; that they met with Mr. Cash out in the field to discuss the landscaping screening adjacent to his property; that the landscape screening was pushed closer to his property at his request; that there was some substitutes made based upon his request.

Public comments were heard.

Mr. John Moore, Jr. asked a question about the application; he asked about the health and the property value.

The Public Hearing and public record were closed.

**M 613 23  
Defer Action/  
CU2388**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS" for the reasons and conditions given by Planning & Zoning.

**Motion Adopted:     5 Years**

**Vote by Roll Call:     Mrs. Green, Yea; Mr. Schaeffer, Yea;  
                                 Mr. Hudson, Yea; Mr. Rieley, Yea;  
                                 Mr. Vincent, Yea**

**Public  
Hearing/  
CU2390**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND

**Public  
Hearing/  
CU2390  
(continued)**

**BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS” (property lying on the south side of Taylor Mill Road [S.C.R. 467B], the west side of Fire Tower Road [S.C.R. 479], and the east side of County Seat Highway [Rt. 9], at the intersection of County Seat Highway [Rt. 9] and Fire Tower Road [S.C.R. 467]) (911 Address: N/A) (Tax Map Parcel: 232-7.00-3.00 [p/o]) filed on behalf of Taylor Mill Road Solar 1, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the reasons and subject to the 10 recommended conditions as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Council found that Claire Habel, with New Leaf Energy, spoke on behalf of the Applicant; that also present was Mr. Shawn Brandt, P.E. with New Leaf Energy, and Mr. Richard Roseberry, P.E. with Colliers Engineering & Design. Ms. Habel stated that the site is located outside of Laurel, across the crossroads of Rt. 9 and Taylor Mill Rd.; that Fire Town Rd. also encompasses the lot; that the site is located adjacent to the Laurel Fire Department Station Sycamore No. 2; that surrounding the site are mostly agricultural uses, such as chicken houses and farming, with some residential homes; that the property is owned by the Givens family; that it has been in their family for over 50 years; that the property is currently owned by Mr. Minos Givens, who did provide a letter of support and his motivation for wanting to lease his land for the use of solar; that the main points of interest for Mr. Givens was securing long term income for generations to come, and keeping the land in the Givens name, while still earning income, without the need for some other kind of development; that the site is just shy of 80 acres; that they are proposing to utilize just short of 20 acres of the entire site for the solar facility; that they intend to keep farming on the remaining parcel; that this site is located adjacent to a fire house; that they spoke with Mr. Jeff Hill–Laurel Fire Chief; that there were some comments heard at the Planning and Zoning meeting referencing endangered species specially bald eagles that have been observed on the site; that they have done their due diligence; that bald eagles were not observed on the memo provided; that the neighbors will still have access to their mailboxes and driveways; that this project is part of Delmarva’s community solar program; that they have completed their studies; that a proposed view was shown of the site; that a letter of support was received by a neighbor.**

**Mr. Shawn Brandt, P.E. with New Leaf Energy spoke on behalf of the Application. Mr. Brandt stated the project layout had changed some to accommodate compliance to the recently adopted Ordinance; that they have ensured all setback requirements have been met in the Ordinance; that they have added a vegetated buffer to completely surround the project; that they have been in communication with DelDOT; that they did receive DelDOT’s**

**Public  
Hearing/  
CU2390  
(continued)**

Service Level Evaluation Response; that recently DelDOT questioned why the project entrance was proposed from Rt. 9; that they are in discussions to move the entrance to be off Fire Tower Rd., as it is the less busy road; that there will be an access along County Seat Highway just for the point of interconnection for utility access; that there will be screening along that road; that no chemicals or pesticides will be used.

Mr. Rick Roseberry spoke about stormwater management; that the project will have a complete stormwater pollution prevention plan prepared; that they will take a condition of road crops and improve it; that they will not be stripping topsoil; that they will be prepared to present all of this information when the time comes.

Ms. Habel stated that there are scientific studies that address health and safety and property values that she would be willing to provide. These studies state that there are no health or safety impacts and the property values do not decrease. Mr. Rieley requested to see them.

There were no public comments.

The Public Hearing was closed, and the public record was left open until January 2, 2024, to receive information about property values and health concerns.

**M 614 23  
Defer Action/  
CU2390**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS" for the reasons and conditions given by Planning and Zoning.

**Motion Adopted:     5 Yeas**

**Vote by Roll Call:     Mrs. Green, Yea; Mr. Schaeffer, Yea;  
                                 Mr. Hudson, Yea; Mr. Rieley, Yea;  
                                 Mr. Vincent, Yea**

**Public  
Hearing/  
CU2393**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS" (property lying on the north and south sides of R & R Lane, approximately 0.38 mile west of BiState Boulevard [Rt. 13A]) (911 Address: 10198 R & R Lane, Delmar) (Tax Map Parcel: 532-6.00-8.00 [p/o]) filed on behalf of Sunrise Solar, Inc.

**Public  
Hearing/  
CU2393  
(continued)**

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 9 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Julian Pellegrini, Project Engineer with the PELSA Company, Inc. spoke on behalf of the Applicant. Mr. Pellegrini stated that also present was a representative from the operations and management company, Standard Solar; that Standard Solar is owned by the well-known Brookfield Renewables, which has numerous solar projects in over 22 states across the Country; that additionally, there was a representative from Sunrise Solar present; that Sunrise Solar has worked alongside Standard Solar, and has 15 ongoing projects with them in Delaware currently; that the project proposes a 4.455-megawatt community solar field, which would be able to power about 390 homes; that the project will take access, with a gravel road, from an existing driveway on the property; that within the solar area, the property will be maintained by typical mowing operations or agrovoltaic farming, which involves sheep or other similar livestock to manage the grass height within the solar field.

There were no public comments.

The Public Hearing and public record were closed.

**M 615 23  
Defer Action/  
CU2393**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS” for the reasons and conditions given by Planning and Zoning.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2397**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 121.33 ACRES, MORE OR LESS” (property lying on the northwest side of Shawnee Road [Rt. 36] approximately 0.20 mile southwest of Old Shawnee Road [S.C.R. 42]) (911 Address: 7152 Shawnee Rd.

**Public  
Hearing/  
CU2397  
(continued)**

**Milford) (Tax Map Parcel: 130-3.00-63.00 [p/o]) filed on behalf of Mispillion Solar Farm, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 9 recommended conditions as outlined.**

**Jamie Whitehouse, Planning & Zoning Director presented the application.**

**The Council found that Mr. Jeffrey Machiran, with EDF Renewables, Inc., spoke on behalf of the Applicant; that Mr. Frank Miller with Century Engineering was also present. Mr. Machiran stated the subject project is specifically being developed in conjunction with Delaware Electric Cooperative; that the project would be located about 1,700 ft. off Shawnee Rd. in Milford; that they will be tapping into the existing Kirby Substation, located a 1.5 mile north of the project site; that the site was selected specifically because there are existing trees surrounding the property; that the existing trees will enable them to keep the cost down by not having to plant additional trees; that there would be no noise to the adjacent property owners; that Century Engineering did a wetland delineation study; that there is a wetland located on the site approximately 1,000 feet from where the property will sit; that on October 5<sup>th</sup> and 6<sup>th</sup>, 2023, they held a community outreach event for surrounding neighbors; that he believed they met with every adjoining neighbor, none of which seemed to have any issues with the proposed project; that they are obligated to decommission the site.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 616 23  
Defer Action/  
CU2397**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to defer on Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 121.33 ACRES, MORE OR LESS” for the reasons and conditions given by Planning and Zoning.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2398**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A**

**Public  
Hearing/  
CU2398  
(continued)**

**SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 61.15 ACRES, MORE OR LESS” (property lying on the southeast side of Hudson Road [S.C.R. 387], approximately 0.61 mile south of the intersection of Lighthouse Road [Route 54] and Hudson Road [S.C.R. 387]) (911 Address: N/A) (Tax Map Parcels: 533-17.00-187.00 [p/o]) filed on behalf of Chaberton Energy (Blue Hen Solar)**

**The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 9 recommended conditions as outlined.**

**The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc. spoke on behalf of the Applicant, also present was Mr. John Tracy and Mr. Ryan Boswell, Director of Development with Chaberton Energy. Mr. Falkowski stated that the project is located within Selbyville, essentially at the Maryland line, located along West Line Rd.; that the site consists of 61.15 acres; that the solar area will consist of 20.50 acres; that the site is currently utilize for agricultural and farmland; that the area of the solar array will be located on the agricultural portion; that none of the existing woodlands will be cleared or disturbed for installation of the solar array; that the project will be accessed off West Line Rd.; that there was a Wetland Delineation performed on the site; that an area of non-tidal wetlands were found on the site; that there was tree harvesting performed at the rear of the site; that if there are existing trees, they will be retained; that if there are no trees, they will plant trees to provide a buffer; that they propose a full perimeter landscape buffer in all areas where there is not existing vegetation; that this is a Delmarva Power grid; that bonding and decommissioning will be completed; that a community outreach meeting was held on October 29, 2023 and there was no opposition.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 617 23  
Defer Action/  
CU2398**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 61.15 ACRES, MORE OR LESS” for the reasons and conditions given by Planning and Zoning.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea  
Mr. Hudson, Yea; Mr. Rieley, Yea;**

**Mr. Vincent, Yea**

**Public  
Hearing/  
CU2433**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 50.50 ACRES, MORE OR LESS” (property lying on Marlyn Lane, on the south side of Lighthouse Road [Rt. 54], approximately 1.05 miles east of Hudson Road [S.C.R. 387]) (911 Address: 38510 Marlyn Lane, Selbyville) (Tax Map Parcel: 533-18.00-39.00) filed on behalf of Chaberton Solar.**

**The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 9 recommended conditions as outlined.**

**The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc. spoke on behalf of the Applicant, also present was Mr. John Tracy and Mr. Ryan Boswell, Director of Development with Chaberton Energy. Mr. Falkowski stated that the project is located within Selbyville, that the entire site consists of 50.5 acres, located within AR-1 (Agricultural Residential); that this is a Delmarva Power project; that the solar project is proposed to be located on 35.6 acres of the entire site; that the current property use is for agricultural purposes; that the project site is located just behind Lighthouse Lakes; that they held a community meeting on October 5, 2023 with Lighthouse Lakes residents; that some changes were incorporated into as a result of the community meeting; that the changes consist of a larger buffer with more canopy trees to be added along the boundary with the subdivision; that a few residents had requested additional buffering to be provided on top of the provided landscape buffer; that Buffer A, is the typical standard buffer of 25 ft., which is to be located along the south and west sides of the site; that Buffer B provides the standard 25 ft. buffer, with an additional three canopy trees per 100 linear feet of the buffer where residents have requested it; that the project takes access from Lighthouse Rd. off an existing farm lane; that there is a section of established trees that they will keep in place; that a tax ditch is located to the northern boundary of the site, and that the project is in compliance with all tax ditch right-of-way setback requirements, as well as all buffer requirements associated with Ordinance No. 2920; that they have agreed to a two-year landscaping bond to make sure the trees get established.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 618 23  
Defer Action/  
CU2433**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**



<p><b>M 618 23</b>  <b>Defer Action/</b>  <b>CU2433</b>  <b>(continued)</b></p>	<p><b>RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 50.50 ACRES, MORE OR LESS” for reasons and conditions given by Planning and Zoning.</b></p>
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**Motion Adopted: 5 Years**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 619 23**      **A Motion was made by Mr. Hudson seconded by Mr. Schaeffer to adjourn**  
**Adjourn**      **at 3:13 p.m.**

**Motion Adopted: 5 Years**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

**Tracy N. Torbert**  
**Clerk of the Council**

*{An audio recording of this meeting is available on the County's website.}*